

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA)
)
v.) Case No. 3:23-mj-1191
) D.D.C. Case No. 1:23-mj-00211
NICO CLARY)
Defendant

ORDER SETTING CONDITIONS OF RELEASE

[X] The government not having requested detention,

[] The Court having determined that the defendant may be released on conditions, upon denial of the government's motion for detention,

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate federal, state, or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 34 U.S.C. § 40702
- (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve any sentence imposed.

The defendant must appear at virtually in the District of Columbia on September 12,
Place
2023 at 12:30 (EDT)/11:30 (CDT) as indicated in the Addendum unless
the defendant elects to proceed with a preliminary hearing in TNMD on
September 19, 2023 as scheduled Date and Time

If blank, defendant will be notified of next appearance.

- (5) The defendant is released on his/her own recognizance or, if an appearance bond is required, must sign an appearance bond.

ADDITIONAL CONDITIONS OF RELEASE

Pursuant to 18 U.S.C. § 3142(c)(1)(B), the court may impose the following least restrictive condition(s) only as necessary to reasonably assure the appearance of the person as required and the safety of any other person and the community.

IT IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

[] (6) The defendant is placed in the custody of the following, whose address has been provided to Pretrial Services:

Person: _____

Person: _____

Who agrees to (a) supervise the defendant, (b) use every effort to assure the defendant's appearance at all court proceedings, and (c) notify the court immediately if the defendant violates a condition of release or is no longer in the custodian's custody.

Signed: _____ *Custodian* _____ Date _____

Signed: _____ *Custodian* _____ Date _____

[X] (7) The defendant must:

[X] (a) submit to supervision by and report for supervision by Pretrial Services as instructed.

[X] call Pretrial Services once per week and verify with address

[] (b) continue or actively seek employment

[] (c) continue or start an education program

[] (d) surrender any passport to Pretrial Services

[] (e) not obtain a passport or other international travel document

[X] (f) not travel outside the Middle District of Tennessee without advance notice to Pretrial Services

[X] not travel outside the continental United States without prior court approval

[] (g) avoid all contact, directly or indirectly, with any person who is or may be a co-defendant, a victim or witness in the investigation or prosecution, including: _____

[] (h) get medical or psychiatric treatment: _____

[] (i) participate in a mental health evaluation and/or program if required by pretrial services with the cost to be determined by pretrial services based on ability to pay or availability of insurance.

[] (j) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary

[X] (k) not possess a firearm, ammunition, destructive device, or other weapon

[] (l) not use alcohol [] at all [] excessively

[] (m) not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner

[] (n) submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.

[] (o) participate in a program of inpatient or outpatient substance abuse therapy and counseling if directed by the pretrial services office or supervising officer, which may be followed by up to 90 days in a half-way house with cost to be determined by pretrial services based on ability to pay or availability of insurance.

[] (p) participate in one of the following location restriction programs and comply with its requirements as directed.

[] (i) **Curfew.** You are restricted to your residence every day

[] (A) from _____ to _____ OR

[] (B) as directed by the pretrial services office or supervising officer; or

[] (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer; or

[] (iii) **Home Incarceration.** You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the court; or

[] (iv) **Stand Alone Monitoring.** You have no residential curfew, home detention, or home incarceration restrictions. However, you must comply with the location or travel restrictions as imposed by the court. **Note:** Stand Alone Monitoring should be used in conjunction with global positioning system (GPS) technology.

[] (q) Submit to the following location monitoring technology and comply with its requirements as directed and pay all or part of the cost of location monitoring based upon ability to pay as determined by the pretrial services or supervising officer:

[] (i) Location monitoring technology as directed by the pretrial services officer; or

[] (ii) Voice Recognition; or

[] (iii) Radio Frequency; or

[] (iv) GPS

[X] (r) report as soon as possible, and within 48 hours, to the pretrial services or supervising officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops

[] (s) permit pretrial services to visit at home or elsewhere without advance notification within the discretion of Pretrial Services and permit confiscation of any contraband observed in plain view of the Pretrial Services officer(s)

[X] (t) stay away from the District of Columbia, except for court appearances, court-ordered obligations, meetings with Pretrial Services, or meetings with attorney

ADDENDUM TO CONDITIONS OF RELEASE

Defendant is ORDERED to report virtually to the United States District Court for the District of Columbia at 11:30 a.m. (Central)/12:30 p.m. (Eastern), on Tuesday, September 12, 2023. The call-in instructions for the virtual hearing are provided below.

Instructions for Virtual Reporting

Join ZoomGov Meeting

<https://uscourts-dcd.zoomgov.com/j/16189525787?pwd=Wlh3MUY5VTRZTUFSYXM5RElIN2UvZz09>

Meeting ID: 161 8952 5787

Passcode: 860903

One tap mobile

+16692545252,,16189525787#,,,,,0#,860903# US (San Jose)

+16468287666,,16189525787#,,,,,0#,860903# US (New York)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

+1 669 216 1590 US (San Jose)

+1 551 285 1373 US

Meeting ID: 161 8952 5787

Passcode: 860903

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (*i.e.*, in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) An offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) An offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) Any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) A misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

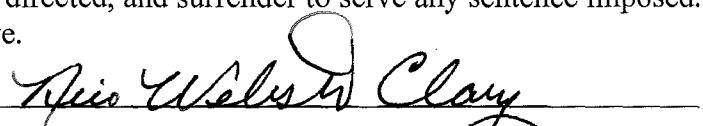
A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

It is further ordered that the conditions listed above are imposed for Defendant's release pursuant to 18 U.S.C. § 3142(h) and are effective upon Defendant's release.

Acknowledgement of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.

Date: 8/30/23



Defendant's signature

Directions to the United States Marshal

[X] The defendant is ORDERED released after processing, subject to the conditions listed above.

[] The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

It is SO ORDERED.

Date: August 30, 2023


BARBARA D. HOLMES
United States Magistrate Judge

DISTRIBUTION: COURT DEFENDANT PRETRIAL SERVICE U.S. ATTORNEY U.S. MARSHAL